IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY APPLICATION No. 343 of 2006
In
COMPANY PETITION No. 185 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PUNJAB NATIONAL BANK - Applicant(s)
Versus
O.L. OF NIRAV SYNTHTICS LTD. - Respondent(s)

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Appearance :
MR SS PANESAR for Applicant(s) : 1,
OFFICIAL LIQUIDATOR for Respondent(s) : 1,
MR MRUGESH JANI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 14/11/2006

ORAL JUDGMENT

1. By way of this Judge's Summons, the applicant – Punjab National Bank claiming to be the only secured creditor has prayed for an appropriate

order directing the Official Liquidator of Nirav Synthetics Limited (in liquidation) to make payment of entire maturity proceeds of the FDR of Rs.9.25 Lacs to the applicant Bank by encashing the said FDR from the applicant.

2. It appears from the record that the Official Liquidator is having Rs.9,55,760/- and the amount of interest, if any, out of the sale proceeds and as the applicant was considered to be the sole secured creditor, this Court passed an order directing the Official Liquidator to invite the claims of the workers and the creditors, if any, by giving public advertisement in local news papers. It is reported that except one claim from one Shri R.M.Chauhan of Rs.2,67,618.89 ps which was received by the Official Liquidator on 25.1.2003, the Official Liquidator has not received any other claim. Even considering the claim of said Shri Chauhan and considering the claim of the secured creditor i.e. the applicant herein and considering the provisions of Section 529(A) of the Companies Act, said Shri Chauhan would be entitled not to more than Rs.10,000/- to 15,000/- and considering the fact that the Official Liquidator is already having Rs.9,55,760/- along with the interest if any, it will be just and proper to direct the Official Liquidator to make the payment of Rs.9.25 Lacs to the applicant subject to the determination of

final percentage ratio and on filing usual undertaking by the applicant Bank and that if ultimately, it is found that excess payment is paid to the applicant, then, the same will be refunded by the applicant within a period of 2 weeks from such determination along with the interest, if any. The aforesaid payment is to be made by the Official Liquidator on furnishing the usual undertaking within a period of 2 weeks from today. The Official Liquidator is also directed to decide the final percentage ratio within a period of 4 weeks from today and submit the report before this Court accordingly so that final order can be passed. The Official Liquidator is also permitted to make the payment of Rs.2498/- towards the advertisement expenses from the funds of the company. Official Liquidator is permitted to prematurely encash the Fixed Deposit for the aforesaid payment.

3. With these, the present application is disposed of.

Direct Service is permitted.

[M.R.SHAH, J.]

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